



TOWN OF BEAUX ARTS VILLAGE

BOARD OF ADJUSTMENT

MINUTES

February 4, 2004
Welsh

PRESENT: Board Chairman Bob Welsh, Boardmembers Steve Matsudaira and Jan Johnson.

EXCUSED: Boardmembers Kevin Peterson and Steve Hauck

GUESTS: Town Attorney Wayne Stewart, Town Planner Mona Green, Applicants Sheila and Peter Justus, Architect Lee Beard, Susan Kennedy and Wolf Dix

DEPUTY TOWN CLERK: Betsy Donworth

Board Chairman Welsh called the meeting to order.

MINUTES: Steve Matsudaira moved to approve the Minutes of December 5, 2003 as submitted. Boardmember Johnson seconded. Motion carried unanimously.

PUBLIC HEARING ON VARIANCE NO. 03-1 – Peter and Sheila Justus – 10555 SE 28th Street

The applicants filed a request for variance to Section 7a of the Town of Beaux Arts Village Zoning Ordinance (No. 266) to expand the footprint of a non-conforming carport and convert it to a garage. On December 3, 2003, the applicants appeared before the Board of Adjustment for consideration of this variance. This hearing was continued until February 4, 2004 in order to give the applicants an opportunity to revise the project plans before having the Board of Adjustment grant or deny the variance. New plans submitted reduce the scope of the prior carport- to- garage conversion, eliminating approximately 71 square feet of the existing carport overhang and the entire existing boat shelter. The plans increase the height of the garage roof by one and one-half feet, yet the redesign presents a lower profile than the previous request.

Chairman Welsh opened the continuation of Public Hearing for the Open Record Hearing on V 03-01. A quorum was present.

Chairman Welsh asked the Boardmembers present if they had participated in any ex parte conversation regarding this application. No Boardmember has had any ex parte conversations.

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Board Chairman Welsh reported he had a discussion with Anne Rutledge regarding the issue of increasing non-conformity. Steve Matsudaira stated he had a conversation with Mark Rogge regarding the Justus' original proposal. A Letter of support from the Van Wycks was entered into the record.

Board Chairman Welsh asked if any Boardmember had a conflict of interest in hearing the variance. No conflict of interest was noted.

There were no challenges from the applicant or public as to appearance of fairness of any Boardmember to hear the variance.

STAFF PRESENTATION:

Town Planer Mona Green explained that the variance heard at the December Board of Adjustment meeting requested relief from Section 7a of Ordinance 266, which requires all structures be located a minimum of twenty feet from the front property line. The current proposal reduces the setback from the existing thirteen foot encroachment to a ten foot encroachment. The proposed roof will increase the height of the existing non-conforming carport by approximately one and one-half feet within the setback area. The Justus' have reduced the overall impact of the carport-to-garage conversion with the revised January 19 submittal. She deferred to the Justus's architect, Lee Beard, to give an overview of the revised proposal.

APPLICANTS PRESENTATION:

Lee Beard presented the proposed revisions to Variance Application V03-1. Mr. Beard explained that the revised application is being submitted in response to the Town of Beaux Arts Village Planning Department staff report and hearing before the board of Adjustment on December 3, 2003. The modified proposal was developed with the following goals in mind:

- 1) Be compatible with neighborhood
- 2) Be compatible with the existing house style
- 3) Enclose and improve structural integrity and secure the carport structure
- 4) Eliminate future roof water damage problems
- 5) Reduce non-conforming encroachment

The revisions being proposed will create a project that is less non-conforming and more compatible with the existing residence. Beard stated that the Justus' have revised the current application design to meet the requirements of the Town of Beaux Arts Village Ordinance No. 266. The original design increased the sq footage of the existing carport. The increase included 69 SF of non-conforming area beyond the original footprint. The new roof had a slope of 6/12. This roof increased the carport's original height. The purpose of the larger design was to increase the area for parking vehicles, enclose the second house entry, and provide space in the attic for a new mechanical system. The Justus' have revisited their design based on the comments of the Board of Adjustment and the Staff. The revised design

maintains the original non-conforming footprint. The Justus' are not asking for an increase. They have also reduced the amount of non-conformance by removing 71 SF of carport overhangs. We have looked at a different way to replace the roof, make the parking spaces adequate, and provide new mechanical and an entrance from the garage to the house. We have designed a roof replacement that will be built over the carport's structure and match the existing house's roof slope. The roof replacement will aid the Justus's with their maintenance of the structure. The existing entry door is moved over to be within the garage. A single garage door is provided for easy access and security for two cars. The entire structure will be brought up to meet current building codes. With this design, the property's existing non-conformity has been reduced by an overall 23 percent. Mr. Beard explained how the project will meet the five Beaux Arts Village variance criteria:

Criterion 1: The variance does not grant a special privilege as they are asking for the same privileges given to other non-conformance property owners who have remodeled or re-built on their non-conforming footprints for car parking.

Criterion 2: The variance will not be detrimental to the public welfare or be injurious to the property or improvements in the vicinity. The improvements will actually enhance the property and improvements in the vicinity.

Criterion 3: The special circumstance that exists for this variance is that the parking structure is an existing nonconforming building that lawfully exists on the property. Non-conformity is not being increased by providing a garage door, siding, and window in the structure.

Criterion 4: The need for a variance has not arisen from actions taken by the Owner/Applicant.

Criterion 5: The design is the minimum variance necessary to permit the owner reasonable use of the property. The applicant is asking for the ability to continue maintaining the existing structure by replacing the roof and providing walls and doors. The roof replacement will match the existing house and its' design will eliminate water problems. 71 SF of non-conforming overhangs will be eliminated, as well as the non-conforming boat structure.

STAFF CLOSING REMARKS:

Planner Green added that she is impressed by the amount of thought put into the revised proposal, feeling that Justus' focused on what concerned the Board at the December meeting. Planner Green previously stated at the December 3 hearing that of the variance criteria, criteria 1, 2 and 4 were satisfied. At that time she did not feel that criteria 3 (there are no special circumstances related to the size, shape, topography, location surroundings, or special features of the property that would mandate that the carport conversion should be approved) or 5 (the variance does not satisfy the criterion as to being the minimum necessary to permit the owner reasonable use of the property, as the Justus' have not demonstrated why the garage cannot be sited within the allowed building area) were satisfied. Given that the Justus' home is an established, older home and that the carport is going to stay put, she is now satisfied that the revised plans satisfy criterion 3, special circumstances. Additionally, she

feels that the revised plan satisfies criterion 5, as this is the minimum necessary to provide the Justus' reasonable use of the property.

Staff therefore recommends that Variance No. 03-01 be approved.

PUBLIC TESTIMONY:

Wolf Dix stated that he is in favor of approving the Variance. Susan Kennedy stated that the Justus' have gone out of their way to accommodate Beaux Arts Village by revising their plans for their carport conversion, and she supports the approval of the Variance.

Hearing no further discussion Chairman Welsh closed the public hearing.

BOARD DELIBERATION AND DECISION:

Criterion 1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town

Jan Johnston: Approving the variance is not grant of special privilege.

Steve Matsudaira: Agrees it is not a grant of special privilege.

The Board is unanimous that Criterion 1 is satisfied.

Criterion 2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

The Board is unanimous that Criterion 2 is satisfied.

Criterion 3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, and special features of the subject property.

The Board is unanimous that Criterion 3 is satisfied.

Criterion 4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

The Board is unanimous that Criterion 4 is satisfied.

Criterion 5. It is the minimum necessary to permit the owner reasonable use of the property.

The Board is unanimous that Criterion 5 is satisfied.

Variance No. 03-1 satisfies all five (5) of the variance criteria.

DECISION:

MOTION: Based on the foregoing findings and conclusions **Variance No. 03-1** satisfies the 5 variance criteria and is hereby approved for conversion of carport to garage per modified plans. The Board further agreed that garage overhangs can be increased to 12 inches from 6 inches, improving aesthetics.

OLD BUSINESS:

VARIANCE HEARINGS/ VARIANCE PROCEDURES: Attorney Stewart and Chairman Welsh discussed having a meeting for the purpose of reviewing the variance process, particularly in light of the new BAV zoning code. Using several hypothetical variance proposals, the Board would go through a hearing, ultimately becoming more comfortable with the decision making process. The date for this meeting will be determined based on Boardmembers availability, but April is the target month. The Board also needs to review the variance letter and procedures outlined in this letter to determine necessary modifications, such as the deadline for submitting a variance request.

ADJOURN: Chairman Welsh moved to adjourn. Boardmember Matsudaira seconded. Motion carried unanimously.

Respectfully submitted,

Betsy Donworth
Deputy Town Clerk